

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

David A. Perlson (Bar No. 209502)

3 davidperlson@quinnemanuel.com

Melissa Baily (Bar No. 237649)

4 melissabaily@quinnemanuel.com

John Neukom (Bar No. 275887)

5 johnneukom@quinnemanuel.com

Jordan Jaffe (Bar No. 254886)

6 jordanjaffe@quinnemanuel.com

50 California Street, 22<sup>nd</sup> Floor

7 San Francisco, California 94111-4788

Telephone: (415) 875-6600

8 Facsimile: (415) 875-6700

9 Attorneys for WAYMO LLC

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;  
16 OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL PORTIONS OF ITS  
OPPOSITION TO DEFENDANTS UBER  
TECHNOLOGIES, INC. AND  
OTTOMOTTO, LLC' MOTION FOR  
SUMMARY JUDGMENT, MOTION TO  
STRIKE TS 96, AND DAUBERT MOTION  
(DKT. 1514) AND EXHIBITS THERETO**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal portions of its Opposition to Defendants Uber Technologies, Inc. and Ottomotto, LLC’s Motion for Summary Judgment, Motion to Strike TS 96, and *Daubert* Motion (Dkt. 1514) (“Waymo’s Opposition”) and exhibits to the Declaration of Jordan Jaffe. Specifically, Waymo requests an order granting leave to file under seal the portions of the documents as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Waymo’s Opposition	Highlighted Portions	Waymo (green highlighting); Defendants (blue highlighting)
Jaffe Declaration	Highlighted Portions	Defendants (blue highlighting)
Exhibit 1 to Jaffe Declaration	Entire Document	Defendants; Waymo
Exhibit 3 to Jaffe Declaration	Entire Document	Waymo; Defendants
Exhibits 4-6 to Jaffe Declaration	Entire Document	Defendants; Waymo (green highlighting)
Exhibit 8 to Jaffe Declaration	Highlighted Portions	Waymo (red highlighting)
Exhibit 12 to Jaffe Declaration	Entire Document	Defendants; Waymo
Exhibit 13 to Jaffe Declaration	Entire Document	Defendants; Waymo (green highlighting)
Exhibit 14 to Jaffe Declaration	Entire Document	Defendants
Exhibit 15 to Jaffe Declaration	Entire Document	Defendants; Waymo (green highlighting)

#### **I. LEGAL STANDARD**

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

## 1 **II. THE COURT SHOULD SEAL WAYMO'S CONFIDENTIAL INFORMATION**

2 The Court should seal the portions of Waymo's Opposition and exhibits thereto identified by  
 3 Waymo in the table above. Waymo seeks to file this information under seal because it discloses  
 4 Waymo's trade secrets and confidential business information. *See* Declaration of Felipe Corredor  
 5 ("Corredor Decl.") ¶¶ 3-5. Courts have determined that trade secret information merits sealing.  
 6 *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147, at \*1  
 7 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc'ns Sys.,*  
 8 *Inc. v. A10 Networks, Inc.*, No. C 10-3428, 2013 WL 211115, at \*1, \*3 (N.D. Cal. Jan. 17, 2013)  
 9 (granting request to seal document that "consists entirely of descriptions of Brocade's trade secrets").  
 10 Confidential business information that, if released, may "harm a litigant's competitive standing" also  
 11 merits sealing. *See Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to  
 12 seal trade secrets that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo maintains  
 13 this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with  
 14 strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4. Waymo  
 15 has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music*  
 16 *Group* and *Brocade* found the confidential information at issue in those cases met the heightened  
 17 "compelling reasons" standard for sealing. *Music Grp.*, 2015 WL 3993147, at \*1; *Brocade*, 2013 WL  
 18 211115, at \*1, \*3. The information that Waymo seeks to seal, therefore, also meets this heightened  
 19 standard. The disclosure of Waymo's trade secret information would harm Waymo. Corredor Decl.  
 20 ¶ 4. Moreover, the scope of information that Waymo is seeking to seal is consistent with other  
 21 administrative motions to seal that have already been granted by the Court in this case. (*See, e.g.,* Dkt.  
 22 416, 414, 406, 393, 392.) Thus, the Court should grant Waymo's administrative motion to seal.

## 23 **III. DEFENDANTS' CONFIDENTIAL INFORMATION**

24 Waymo only seeks to seal the portions of Waymo's Opposition and the Jaffe Declaration  
 25 (highlighted blue) and the portions Exhibits 1, 3, 4-6, 8, 12-13, and 15 to the Jaffe Declaration as  
 26 identified in the table above, because Waymo believes such information is considered confidential or  
 27 non-public by Defendants or by certain third parties. Corredor Decl. ¶ 6. Waymo takes no position as  
 28

1 to the merits of sealing any of designated material, and expects Defendants to file declarations in  
2 accordance with the Local Rules.

3 **IV. CONCLUSION**

4 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the  
5 above listed documents accompany this Administrative Motion. For the foregoing reasons,  
6 Waymo respectfully requests that the Court grant Waymo's administrative motion to file under  
7 seal.

8  
9 DATED: September 18, 2017

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

10  
11 By /s/ Charles Verhoeven

Charles Verhoeven

12 Attorneys for WAYMO LLC  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28